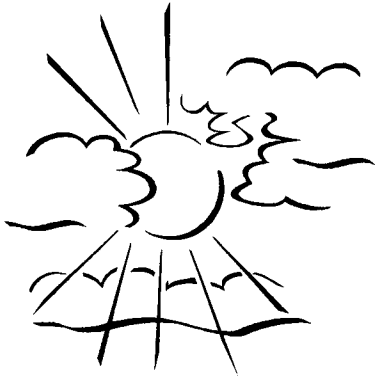


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# **Articles in Today's Clips**

## **Monday, July 18, 2005**

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# Conference to discuss Medicaid co-pay rise

## Granholm to seek program changes

*July 16, 2005*

**BY KATIE MERX**

### FREE PRESS BUSINESS WRITER

The same health cost pressures that have employers and workers seeking relief have put Medicaid and various health care reforms at the top of the agenda at this weekend's National Governors Association summer conference in Des Moines, Iowa.

A committee chaired by Michigan Gov. Jennifer Granholm is expected to recommend the U.S. Department of Health and Human Services allow states to impose higher co-pays on Medicaid patients, to more easily change the benefits they provide and to pool with other states to negotiate lower prices from vendors such as prescription-drug distributors.

Medicaid is a federally and state-funded health-benefits program for low-income families and individuals with disabilities.

Nearly 1.5 million Michigan residents receive benefits through Medicaid.

An HHS spokesperson said the agency is working closely with the governors association to recommend changes.

Medicaid is moving to the forefront of policy discussions this year for the same reason General Motors Corp. has asked the UAW to help reduce its health care costs and businesses nationwide are shifting more health-benefit costs to employees: Health care costs are rising faster than prices in the general economy.

"It has to do with how much people are willing to pay for health insurance and how long they're willing to pay," said Leighton Ku, a senior fellow at the Center on Budget and Policy Priorities in Washington, D.C.

The governors want more flexibility to come up with creative ways to save money and increase public access to health care, said Eileen Kostanecki, Granholm's federal policy adviser.

But critics say some of the group's recommendations -- particularly requests to increase co-pays for Medicaid beneficiaries and ease requirements for mandatory state-provided benefits -- would create more problems than they would solve by making it more difficult for the poor to see a doctor. Recipients may also have more trouble paying for medicine that could keep them out of the emergency room, one of the most expensive places to seek care.

The National Governors Association Medicaid Reform report aims to change Medicaid so that the federal government doesn't save money simply by shifting the costs to the states, Ku said. That's an understandable goal, he said, but "we would say, don't take it out of the hide of the people who are the most disadvantaged."

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REPORT NO. --, VOLUME 35  
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July 15, 2005

## **GRANHOLM TO PUSH MEDICAID REFORMS** **AT N.G.A.**

A Medicaid reform policy that give states additional flexibility in dealing with drug costs and other matters in the fast-growing program is at the top of the priority list as Governor Jennifer Granholm heads to the National Governors Association summer meeting this weekend. Ms. Granholm, who helped develop the policy and will lead a discussion on it at a Sunday meeting, will also focus on education and transportation issues at the three-day conference.

The Medicaid policy to be adopted embraces multi-state purchasing pools for prescription drugs, increased rebates from drug manufacturers, restrictions on transferring assets to qualify for Medicaid, flexibility to provide different coverages to different groups, use of information technology in a pilot program in 10-15 states, a health care tax credit for individuals, reimbursement for catastrophic coverage for retirees in private health care plans and incentives for long-term care insurance.

"It's a starting point," Granholm spokesperson Liz Boyd said. "We know that Medicaid is unsustainable in current form. But there is also concern that the current report could force vulnerable people to lose their health care. That is not the goal of recommendations."

This week, the Washington, D.C.-based Center on Budget and Policy Priorities criticized one portion of the proposal, which provides that out-of-pocket payments for medical care from Medicaid families match the 5 percent limit set by the State Children's Health Insurance Program. Officials from the center said co-pays and higher premiums (the 2005-06 budgets approved by the state House and Senate include such provisions) will end health care coverage for large numbers of families.

Ms. Boyd said the governor is sensitive to those concerns, but said the co-pays Ms. Granholm has proposed are meant to "steer behavior and personal responsibility in everyone's own health care decisions. Co-pays drive people to understand that if they see a primary physician, it will result in less cost than if they go to the emergency room."

Of the policy in general, she said it offers ideas to control costs and "acknowledges that Medicaid one piece of health care pie."

Ms. Boyd said the governor's staff is working with the state's Congressional staff to work out the details of moving forward with the Medicaid policy.

The policy, while saying Medicaid cannot be the funding mechanism for the 6 million low-income elderly persons who qualify for both Medicaid and Medicare, said resolving that issue will have to be addressed separately.

The governor will also continue to push for support for a federal transportation policy that returns more money to Michigan.

On education, Ms. Granholm will join 35 other governors in signing a multi-state education compact to standardize graduation rates. The wrap-up plenary session on Monday will deal with "creating new high schools from the ground up," an initiative of NGA Chair Mark Warner, the Virginia governor. The opening plenary session includes a presentation on redesigning high schools from an international perspective.

At Saturday's plenary session, Ms. Granholm will introduce the featured speaker, Thomas Friedman, whose book *The World is Flat* has risen to the top of the governor's must-read list. The book looks at the implications of a global economy and in Ms. Granholm's words, is a "clarion call" for Michigan to adapt to the international market.

Ms. Granholm, as chair of the Human Resources Committee, will lead a discussion beyond Medicaid with a panel looking at ways to make quality health care affordable and accessible.

"Reducing the number of people uninsured while improving access to quality health insurance in America is a priority for everyone," Ms. Granholm said. "Governors have developed Medicaid reform solutions this year, which is one critical piece of the puzzle, but it is time to look at the overall health care picture."

During a governors-only session, state leaders are scheduled to hear from Department of Homeland Security Secretary Michael Chertoff. Further, all attendees are expected for a special session regarding transportation issues.

Also meeting is a committee targeting economic development issues which will focus on the deployment of broadband communications networks, an education panel which will review teacher recruitment and retention efforts and a resources committee which will discuss the role of a federal law as it pertains to energy production.

**2007 HOST:** Ms. Granholm will also be boosting Michigan as the host state for the 2007 summer meeting, hoping that Traverse City will get a chance for a repeat role it first played in 1987 when James Blanchard was governor.

Also bidding for the conference is Charleston, West Virginia.

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# New York Medicaid Fraud May Reach Into Billions

By CLIFFORD J. LEVY and MICHAEL LUO The New York Times

Published: July 18, 2005

It was created 40 years ago to provide health care for the poorest New Yorkers, offering a lifeline to those who could not afford to have a baby or a heart attack. But in the decades since, New York State's Medicaid program has also become a \$44.5 billion target for the unscrupulous and the opportunistic.

It has drawn dentists like Dr. Dolly Rosen, who within 12 months somehow built the state's biggest Medicaid dental practice out of a Brooklyn storefront, where she claimed to have performed as many as 991 procedures a day in 2003. After The New York Times discovered her extraordinary billings through a computer analysis and questioned the state about them, Dr. Rosen and two associates were indicted on charges of stealing more than \$1 million from the program.

It has drawn van services, intended as medical transportation for patients who cannot walk unaided, that regularly picked up scores of people who walked quite easily when a reporter was watching nearby. In cooperation with medical offices that order these services, the ambulettes typically cost the taxpayers more than \$50 a round trip, adding up to \$200 million a year. In some cases, the rides that the state paid for may never have taken place.

School officials around the state have enrolled tens of thousands of low-income students in speech therapy without the required evaluation, garnering more than \$1 billion in questionable Medicaid payments for their districts. One Buffalo school official sent 4,434 students into speech therapy in a single day without talking to them or reviewing their records, according to federal investigators.

Nursing home operators have received substantial salaries and profits from Medicaid payments, while keeping staffing levels below the national average. One operator took in \$1.5 million in salary and profit in the same year he was fined for neglecting the home's residents.

Medicaid has even drawn several criminal rings that duped the program into paying for an expensive muscle-building drug intended for AIDS patients that was then diverted to bodybuilders, at a cost of tens of millions. A single doctor in Brooklyn prescribed \$11.5 million

worth of the drug, the vast majority of it after the state said it had tightened rules for covering the drug.

New York's Medicaid program, once a beacon of the Great Society era, has become so huge, so complex and so lightly policed that it is easily exploited. Though the program is a vital resource for 4.2 million poor people who rely on it for their health care, a yearlong investigation by The Times found that the program has been mispending billions of dollars annually because of fraud, waste and profiteering. A computer analysis of several million records obtained under the state Freedom of Information Law revealed numerous indications of fraud and abuse that the state had never looked into.

"It's like a honey pot," said John M. Meekins, a former senior Medicaid fraud prosecutor in Albany who said he grew increasingly disillusioned before he retired in 2003. "It truly is. That is what they use it for."

State health officials denied in interviews that Medicaid was easily cheated, saying that they were doing an excellent job of overseeing the program.

"This continues to be an area where we think that we have made substantial progress," said Dennis P. Whalen, executive deputy commissioner of the State Health Department. "But by no means are we sitting back and resting on the accomplishments that we have made."

Nonetheless, after being informed of The Times's findings, the Republican majority in the State Senate began a push recently to overhaul the system intended to protect Medicaid, which has been sharply reduced even as Gov. George E. Pataki and lawmakers have nearly doubled the program's budget over the last decade. The Democratic majority in the Assembly has remained on the sidelines. So has Mr. Pataki.

New York's Medicaid program is by far the most expensive and most generous in the nation. It spends far more - now \$44.5 billion annually - than that of any other state, even California, whose Medicaid program covers about 55 percent more people. New York's Medicaid budget is larger than most states' entire budgets, and it spends nearly twice the national average - roughly \$10,600, more than any other state - on each of its 4.2 million recipients, one in every five New Yorkers.

That generosity was born of good intentions when Gov. Nelson A. Rockefeller signed the program into law in 1966, following the state's tradition of creating big antipoverty programs. But Medicaid has become far more than the child of that altruism, having morphed into an economic engine that fuels one of the state's biggest industries, leaving fraud and unnecessary spending to grow in its wake.

The Morris Park Nursing Home in the Bronx, which receives 75 percent of its revenue from Medicaid, was fined for poor supervision.

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There are no precise estimates for the cost to the state's program. Officials who have spent their careers chasing unscrupulous doctors and other providers in New York Medicaid say the losses to taxpayers here are probably higher than typical estimates of overall health care fraud. The Government Accountability Office in Washington and others have estimated that 10 percent of all health care spending nationally is lost to "fraud and abuse."

James Mehmet, who retired in 2001 as chief state investigator of Medicaid fraud and abuse in New York City, said he and his colleagues believed that at least 10 percent of state Medicaid dollars were spent on fraudulent claims, while 20 or 30 percent more were siphoned off by what they termed abuse, meaning unnecessary spending that might not be criminal. "So we're talking about 40 percent of all claims are questionable," Mr. Mehmet said - an amount that would approach \$18 billion a year.

Despite the debate, and the enormous sums at stake, Albany has never formally studied how much of the huge government investment in Medicaid is lost to criminal activity and abuse.

For their part, federal auditors have made New York a leading target for inspection as Washington has begun to crack down on Medicaid spending abuses. The federal government shares the cost of Medicaid with the states. In New York, it pays half the bill; Albany splits the rest of the cost with its counties and New York City.

The lax regulation of the program did not come about by chance. Doctors, hospitals, health care unions and drug companies have long resisted attempts to increase the policing of Medicaid. The pharmaceutical industry, which has spent millions of dollars annually on political contributions and lobbying in Albany, has defeated several attempts to limit the drugs covered by Medicaid; other states have saved hundreds of millions of dollars annually with such restrictions.

Earlier this year, after the Legislature agreed to impose such a limit and steer patients to generic drugs, the industry won a major loophole that allowed any doctor to substitute a higher-priced brand name with a simple phone call to the state.

Governor Pataki would not be interviewed about Medicaid for this article, and his aides referred questions to the State Department of Health, which is part of his administration. The health commissioner, Dr. Antonia C. Novello, also declined to be interviewed.

In defending the department's performance, Mr. Whalen, the executive deputy commissioner, said it had saved \$9.3 billion in recent years through investigations of providers, a new computer system and other measures.

Asked repeatedly to provide an in-depth explanation of their claim of major savings or for any state records or other documentation to back up the figures, department officials would not supply any.

The Times investigation drew upon interviews with scores of current and former officials and health-care providers, including several former investigators who say they left the state disillusioned about its commitment to fighting fraud. A review of thousands of pages of state, federal and local records turned up repeated examples of cost savings and waste reduction used by the federal government and other states, but not by New York.

The investigation found audits on Medicaid spending that were brushed aside, and reports on waste that appear to have been shelved. There have been multiple warnings from watchdog agencies in New York and in Washington that indicate that the program is becoming increasingly porous. Prosecutors said state regulators had all but lost interest in bringing Medicaid thieves to justice, preferring instead to focus on recouping money through a few civil cases that have little deterrent value.

#### The Dentist

On the streets of Downtown Brooklyn, the young men would regularly fan out to drum up business for Fulton Gentle Family Dentistry.

"Got a Medicaid card?" one of the men shouted one day last November. "Come in and get your free CD player right now!"



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But inside the office at 575 Fulton Street, Dr. Dolly Rosen seemed to make money whether or not the barkers did their job. She simply invented the dental work she did, according to state prosecutors alerted by The Times, and then billed it to Medicaid. And the breadth of her deception was enormous, the prosecutors said.

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In 2003, less than two years after joining Medicaid, Dr. Rosen and an associate reaped \$5.4 million, more than the amounts garnered by 98 percent of providers of all types in the entire New York program, according to the analysis of Medicaid billings.

Dr. Rosen claimed to be doing thousands of procedures every month, far more than any group of dentists could possibly perform, according to the analysis and interviews with dental experts.

In September 2003, she charged Medicaid roughly \$725,000 for 9,500 individual dental procedures, many of them expensive and complicated, such as filling cavities that had rotted away much of the tooth. On a single day that month, she billed for 991 procedures, or more than 100 an hour in a typical workday.

In criminal complaints, an investigator said that more than 80 percent of the procedures for which the dental office billed were not performed, were unnecessary or were improper.

Dr. Rosen, who is 48 and lives in Manhattan, was licensed in 1995 and joined the Medicaid program in 2002. Since then, she has billed taxpayers more than \$7 million.

She and her lawyer, Jeffrey A. Granat, would not comment.

The allegations of fraud in this case involved dentistry, but in the world of New York Medicaid, this kind of scheme is not unusual in any specialty, although it rarely occurs on such a scale.

Many doctors, clinics, pharmacists and other providers routinely exaggerate their billings, investigators say, often claiming to do more work than they really performed, or substituting an expensive procedure for a minor one. Others invent visits that never occurred.

"This is an age-old problem in New York," said Professor Malcolm Sparrow of Harvard, who has written extensively on health care fraud.

Albany stood by as Dr. Rosen's Medicaid billings went from zero in 2001 to \$4 million in 2003, according to the analysis of her billing records.

Her 2003 billings were by far the highest of the 50,000 dentists or doctors in New York Medicaid - \$1 million more than those of the next highest, the records show.

Dr. Rosen had an associate in the Brooklyn office, Dr. Alex Silman, who sent his own bills to Medicaid. His billings showed a similar spike, rising to \$1.4 million in 2003 from \$115,000 in 2002, records show.

The Department of Health and the state attorney general's office blamed each other for failing to stop Dr. Rosen and Dr. Silman. The department said it had alerted the office that it should investigate possible improprieties with their practices. The office said the department had botched its inquiry.

Last fall, The Times brought its findings on Dr. Rosen and Dr. Silman to the attention of the Medicaid Fraud Control Unit, which is in the state attorney general's office. On March 24, prosecutors in the unit had Dr. Rosen and Dr. Silman arrested.

This month, the two were indicted on charges of first-degree grand larceny, each accused of stealing more than \$1 million from the program. Another associate, David Ibragimov, who handled billing for the office, was also indicted. All three have pleaded not guilty.

The Times found Dr. Rosen's extraordinary billings using a laptop computer and commonly available software after spending a few hours studying New York Medicaid billings. And she was only one of scores of medical providers who turned up in the search with similar spikes in revenues, including three Brooklyn pharmacies, a Manhattan doctor and a Queens medical supply company. None had even been audited by the state.

#### The AIDS Drug

The woman said her name was Pamela Borden, but it was not. She told the doctor that she had AIDS and had been losing weight rapidly, but she did not have AIDS and was overweight. Yet when she walked out of Dr. Mikhail Makhlin's Brooklyn office in February 2002, she was clutching a prescription for a very expensive synthetic growth hormone intended to treat wasting syndrome, a side effect of AIDS.

The cost of the drug, entirely borne by taxpayers, was \$6,400 a month.

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The woman's real intention for the synthetic hormone, Serostim, had nothing to do with AIDS. Serostim is highly sought in a thriving black market among bodybuilders, who use it like a steroid to bulk up.

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And Dr. Makhlin wrote far more prescriptions for Serostim than any other Medicaid doctor in the state, more than even prominent AIDS specialists with large practices. From 2000 to 2003, Dr. Makhlin prescribed 12 percent of all the Serostim purchased by New York Medicaid, costing the program \$11.5 million, according to the Times analysis of Medicaid billings.

Medical records and interviews with state officials suggest that the woman's visit was part of an elaborate series of scams involving Serostim that stole tens of millions of dollars from New York Medicaid, long after other states realized what was going on. In 2000, New York Medicaid paid \$7 million for Serostim, but the following year, after the schemes took off, the state spent \$50 million on the drug.

The money was spent despite national publicity that had led other states to realize that Serostim was being abused, and to begin reining in their spending on the drug. Florida, for example, put restrictions on Medicaid payments for Serostim in 1997. The same year, federal officials broke up a Medicaid fraud ring that recruited people from Washington Square Park and paid them \$20 to \$50 to get Serostim illegally.

At the Health Department, Mr. Whalen and his aides described the department's handling of the drug as a success. They said they had detected the increase in Serostim prescriptions and required doctors to get special approval to prescribe the drug after January 2002. But billing records show that Dr. Makhlin wrote 80 percent of his Serostim prescriptions after the restrictions were adopted.

Serostim was approved in the mid-1990's to treat wasting syndrome, a side effect of AIDS. It is injected under the skin and causes a significant increase in lean body mass and weight.

The drug's manufacturer, Serono Laboratories, is the subject of an extensive federal criminal investigation into whether its executives paid kickbacks to doctors to prescribe Serostim. The company said it was cooperating with the inquiry.

Federal authorities would not say whether Dr. Makhlin had been questioned in the federal inquiry. What is clear is that Dr. Makhlin played a pivotal role in the epidemic of Serostim abuse on the East Coast. Even now, he retains his Medicaid privileges and medical license, and has not been a subject of a state criminal inquiry.

Dr. Makhlin, who was educated in Russia and arrived in New York in 1989, maintains that he was unwittingly duped by a parade of patients he tried to help, and that he received no benefit for prescribing a drug he considered necessary. But he and his lawyer, Nathan Dembin, will not explain how he ended up prescribing far more Serostim under Medicaid than any other doctor in the state. Thirty of his patients each received more than \$100,000 worth of the drug.

The State Department of Health did not try to discipline Dr. Makhlin until late 2003, seeking to suspend him from the program for five years and fine him \$164,000. But Dr. Makhlin has successfully fought the penalties, and retains his Medicaid privileges while an administrative law judge in the department weighs his case.

"I did not intentionally or knowingly violate any Medicaid regulations," Dr. Makhlin said in court papers. "I was simply exercising my best medical, professional judgment."

It was not until 2004 that the amount of Serostim purchased by New York Medicaid returned to where it was before the spike.

The true identity of the woman who received the prescriptions from him in February 2002 will probably never be known. The real Pamela Borden was found in Brooklyn and said her Medicaid card had been stolen in late 2001. She said no one from the state had contacted her about Dr. Makhlin.

#### The Ambulettes

With an immense public transit system and fleets of taxis and car services, New York is one of the nation's easiest cities to get around in, even for the old and the sick. But instead of reimbursing patients for a \$2 bus ride to their doctor's office, or a \$10 fare for a car service, Medicaid typically pays \$25 or \$31 each way for these rides, and it adds up.

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New York Medicaid paid far more than any other state to get patients to hospitals and doctor's appointments: \$316 million in 2003. The state accounts for about 15 percent of all the nonemergency Medicaid transportation spending in the country, according to a 2001 report by the Community Transportation Association of America, and spends more than the next three states - California, New Jersey and Florida - combined.

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The largest chunk of the \$316 million spent on transportation went to some 450 ambulette services, about a fifth of which are clustered in Brooklyn.

And much of that spending appears to be entirely unnecessary.

That was clear on a recent afternoon in southern Brooklyn, when an elderly woman strolled out of a doctor's office and clambered into the front seat of a van owned by M. J. Trans Corporation, a medical transport company that billed Medicaid for more than \$2 million last year. After a 25-minute ride across the borough, she got out in front of her apartment, again without help, and walked inside.

The van is called an ambulette, and Medicaid is supposed to pay for it only when a patient cannot walk without help or requires a wheelchair. In fact, the state refers to the service as an "invalid coach." But on three days spent following M. J. vans over several months, a Times reporter found that almost all of the company's passengers walked easily, without assistance. The pattern was repeated as recently as last month.

Many doctors, therapists and clinics regularly order ambulette transportation for their patients when cheaper alternatives should have been used instead, according to a 2003 audit of Medicaid transportation expenses in New York City by the state comptroller, Alan G. Hevesi.

The state has known about abuses in the ambulette industry for years, and about the neighborhoods where kickbacks and other questionable activity takes place. In the early 1990's, regulators discovered that a quarter of the entire state's transportation billings were coming from Brighton Beach, Brooklyn, where a few companies had cornered the market with an elaborate set of kickback arrangements, according to a 1996 report on waste in the industry by the New York City public advocate's office. The report, along with others on the industry, suggested that many ambulette services billed Medicaid for rides that were never delivered.

But even though these schemes date back years, government records show that the state has spent almost no time looking into the ambulette industry. Prosecutors and outside auditors say that fraud, including the kind in which van services pay kickbacks to medical offices that order rides, remains rampant.

Only five ambulette providers who billed Medicaid in the 2004 state fiscal year had even a portion of their billings audited by state officials, according to state records.

Mr. Whalen, the senior state health official, maintained that the industry was properly regulated, adding that in an effort to detect fraud, the department had begun requiring providers to supply more information on their operations. "Transportation and ambulances are on our radar screen as an active area of inquiry," he said.

One of the ambulette companies that has never been audited is M. J. Trans, though it had more billings per vehicle than almost any other of its size in the state. Its Medicaid billings jumped to more than \$2 million annually in 2004 and 2003 from \$700,000 in 2001.

Yuri Levitas, a manager at the ambulette company, said none of its billings were illegal or improper.

"We do only legal business," he said.

In fact, an analysis of its Medicaid billings raises questions about whether the company is abusing the system, or possibly allowing individual patients and doctors to do so. The records indicate that the company has business relationships with medical practices in southern Brooklyn that often bill Medicaid for what seem an inordinate number of trips.

A doctor at a pair of clinics that specialize in pain relief and massage therapy often ordered more than 90 trips a day, as did a colleague of his.

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At another doctor's office, Medicaid was billed 153 times by M. J. for transporting a single passenger in 2003, or essentially two or three times a week for an entire year. Another recipient went 152 times. Still others made the trip in M. J. vans more than 130 times.

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M. J. Trans said most of those rides were ordered by the office for recipients receiving physical therapy there.

"They order, and we go," Mr. Levitas said, adding that he was not responsible for ensuring that the rides were necessary.

Several physical therapists expressed skepticism that anyone would need so much therapy.

"There is always the difficult or complicated case here and there that requires extensive and intensive therapy, but as a general rule, 153 visits would seem excessive," said Gabriel E.

Yankowitz, a physical therapist for more than two decades and an official with the New York Physical Therapy Association.

But Gail Bednik, the manager of the office, at 280 Quentin Road in Gravesend, that is in the records as having ordered the 153 rides, said there was nothing surprising about the patients who took scores of ambulettes annually at taxpayer expense.

"It's old people," Ms. Bednik said. "They want to come every day because they're bored at home."

The School Districts

In just a few hours on a single day in September 2000, a senior official in the Buffalo school system wielded a rubber signature stamp and cost millions of dollars in questionable Medicaid payments for children.

Her name was Sheryl Carswell, and at the time she was Buffalo's director of special education. Moving her rubber stamp with assembly-line speed that day, she put 4,434 special-education students on the Medicaid rolls by recommending that they receive speech therapy, according to a federal audit. That represented nearly 60 percent of the district's special-education population, roughly twice the national average of special-education students who require speech therapy. Yet she had not evaluated more than a few of those 4,434 students, according to the audit, issued by the inspector general of the federal Department of Health and Human Services, nor had she reviewed their case files.

Ms. Carswell was not stealing the money for herself or maliciously abusing the system. Instead, she was doing business in a way that has become increasingly common in Buffalo, New York City and around the state, collecting millions of Medicaid dollars for her school district by putting students into health and speech programs, often without any apparent effort to see if the students really needed them.

All told, the schools in New York State misspent \$1.2 billion in Medicaid payments on speech services from 1993 to 2001, federal audits concluded.

In an interview, Ms. Carswell said she was simply following longstanding school procedures. "I just filled out the paper," she said. "Nobody bothered me about it."

Since 1990, schools in New York have been able to bill Medicaid for speech, hearing, and other school health services, and the state has become the most aggressive in the nation at taking advantage of this benefit. Around the state, school districts short on cash discovered in Medicaid

a new revenue source. As a result, in recent years, school health services have become an \$800 million annual expense, rising to the point that New York accounts for 44 percent of this type of Medicaid spending nationally, according to federal statistics.

Licensed speech professionals quickly realized what was happening, and many have complained that schools are cutting corners and using the funds to pay for services that have nothing to do with helping poor children speak or hear better. "We have been seeing a lot of very suspicious billing practices in New York," said James G. Potter, director of government relations and public policy at the American Speech-Language-Hearing Association, which has 118,000 members. "At times, folks in the schools have been just plain making it up out there when it comes to billing."

This spending was routinely approved by the state, but the federal government was not as credulous. The questionable spending touched off two audits in 2002 by the inspector general, and a civil inquiry by the federal Department of Justice.



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In an audit released last month, the inspector general revealed that in New York City schools, 86 percent of the Medicaid claims that were paid from 1993 to 2001 lacked any explanation for why the services had been ordered or violated other program rules. In Buffalo and other upstate schools, the auditors concluded that the figure was 56 percent for the same period, according to a report released last year.

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The audits should not have come as a shock. In the mid 1990's, a private consultant told New York City school officials that their record-keeping was in such disarray that 51 percent of attendance forms for speech students could not be found. Yet school officials did not change their practices, according to the subsequent audit.

When the upstate school districts found out about the audits in 2002, some tried to cover their tracks, the inspector general found. Digging through their filing cabinets, they backdated records to justify Medicaid spending for services performed as many as eight years earlier.

Now, after the audits, federal officials say Washington is likely to begin demanding its money back, and so this misuse of Medicaid money could haunt either the districts that spent it, or the state, or both. Many districts are worried that the repayment could devastate their education budgets.

School officials, including those in New York City, have sharply disputed the audits, and called for them to be withdrawn.

The Justice Department suspended its civil inquiry after complaints from Senator Charles E. Schumer, Democrat of New York, and other politicians, and federal health officials have agreed, for now, not to seek restitution from school districts. But the state itself could still be liable, and could then in turn penalize the districts.

Pataki administration officials say Washington has never been clear about what kind of school services it will pay for and how children should be referred to these programs, accusing Washington of changing the rules.

"There is no question that school districts actually provided health services to poor, disabled children," wrote Kathryn Kuhmerker, a deputy health commissioner, in her response to the upstate audit.

The state, however, did not meet its responsibility to make sure the money was properly spent, the federal audit found. The State Health Department reviewed the books of the Buffalo district only once from 1993 to 2001, and told the district its records were "well organized."

#### The Executives

Among the biggest beneficiaries of the Medicaid program have been executives of the state's nursing homes and clinics, many of whom earn substantial salaries and profits from the program. According to records obtained from the Health Department under the Freedom of Information Law, 70 executives of nursing homes and clinics personally made more than \$500,000 in 2002, the last year for which figures are available. Twenty-five executives made more than \$1 million. For the nursing home executives, that money was earned in salaries and profits, most of which came directly from the daily fee that Medicaid pays for caring for each low-income patient, usually in the range of \$200. Salaries are earned by employees of the homes, and profit is earned

by owners, although owners are often executive directors or chief executives of the homes, allowing them to benefit in both ways.

Consider three homes in the Bronx. The operator of the Laconia Nursing Home, which receives 90 percent of its revenues from Medicaid, earned \$3 million in salary and profit. At the Grand Manor Nursing Home, also 90 percent financed by Medicaid, the operator and three family members earned a total of \$2.4 million in salaries and profit. The owner and operator of the Morris Park home, 75 percent financed by Medicaid, took in \$1.5 million in salary and profit. Advocates for nursing home residents acknowledge that the homes' operators and executives are entitled to make decent profits and salaries. But the advocates insist that it is unseemly for the profits and salaries to reach such high levels, given what the advocates contend is the industry's longstanding record of poor care. They point out that at New York nursing homes, the staffing levels are lower than the national average, a crucial indicator. All three of the Bronx homes have staffing levels lower than the national average, according to federal statistics.

(Page 8 of 8)

"It's unconscionable to give yourself high salaries and not give some more money to hire people so some of these quality problems can be dealt with," said Cynthia Rudder, executive director of the Long Term Care Community Coalition, an advocacy group for nursing home residents. This is the first of a series of articles that will examine the security, the effectiveness and the cost of New York's Medicaid program, the largest of its kind in the nation and the state's biggest expense.

Tomorrow: How the state's protections against fraud have grown increasingly frail.

Trade groups representing nursing homes counter that most homes in the state are actually in financial distress because Medicaid does not pay enough.

Many hospital executives in New York also receive high salaries, but hospitals earn significant revenues from sources other than government social programs, including H.M.O.'s and private insurance. The 550 public, private and nonprofit nursing homes around the state, by contrast, earn more than two-thirds of their revenues from Medicaid, taking in roughly \$6 billion last year from the program, according to state records. Many clinics receive most of their revenues from Medicaid as well.

Morris Berkowitz, operator of the Morris Park home, said he deserved his profits because he worked long hours and provided excellent care.

"Do you know how much I have invested in this place?" he said. "A lot of money. And I am constantly investing in this place."

Earlier this year, after residents repeatedly wandered from Morris Park, federal and state officials accused the home of grievously poor supervision, and it was fined \$86,000.

Mr. Berkowitz said the home had done nothing wrong. "It was a political thing, and we got caught up in it," he said. "People with power, they abuse their power."

Martin Liebman, operator of Grand Manor, said it was misleading to focus on salaries and profits.

"This is a family-owned business," said Mr. Liebman, an officer of the state trade group of private nursing homes. "I'm third generation in the business. We have taken care of thousands of residents and given quality care for many, many years."

Barry Braunstein, operator of the Laconia home, did not respond to three calls seeking comment. Besides their high salaries, some executives profiting from Medicaid were also taking part in another tradition: cheating the program.

In 2002, the two owners of the AllCity Family Healthcare clinics in Brooklyn collected a total of \$1.4 million in salaries, according to state records. Last year, the company was forced to return \$6 million to the state, and one of its owners, Rossia Pokh, pleaded guilty to grand larceny in a case brought by the attorney general.

At the AllCity clinics, it turns out, thousands upon thousands of the Medicaid claims were fraudulent.

# **MEDICAID REFORM: Co-pay proposal asks too much of the poorest**

*Detroit Free Press Editorial*

*July 15, 2005*

The nation's governors need to rethink one part of their plan to reform Medicaid. They should not give Congress an opening to start charging the poorest of the poor for their medical care. Medicaid is properly high on the governors' agenda as they gather this weekend in Des Moines, Iowa. The joint federal-state health program has been growing faster than most state budgets, a problem Michigan shares with most of the nation. The plan the governors have come up with is, for the most part, a solid set of goals for structural change that could yield real savings. But in the mix is also a plea for the option to charge fees and co-pays that could total up to 5% of household income. That framework has worked well for programs that serve people with incomes somewhat above the poverty line, such as families among the working poor who need support to keep them off welfare. But nationally, nearly three-quarters of Medicaid recipients are at or below poverty level, and even trivial sounding co-pays can stress their budgets. In states that have already tested premiums and co-pays for their poorest Medicaid recipients, the results have not been good. Costs to the state may fall, but studies show that's because some people stop filling prescriptions or just drop out. Although it is difficult to track, most researchers believe the costs ultimately rebound on hospitals in the form of more emergency room visits and admissions. It is a cost shift, not a cost savings, and potentially an expensive one. The governors are right to press for more flexibility and ask Congress to fix the way costs are assessed as the elderly poor get shifted from state Medicaid prescription plans to the Medicare program. Michigan alone will spend an extra \$34 million next year because of the changeover; in 2010, that cost will grow to \$249 million, according to Gov. Jennifer Granholm's federal policy adviser in Washington. It's simply not fair to grab so much state revenue for what's billed as federal largesse. The poorest of the poor shouldn't be left vulnerable as a way of making up the difference.

# Judge could say today if parents will lose infant

Monday, July 18, 2005

By Crystal Harmon TIMES WRITER

The parents of an infant boy who was so severely injured that he's now blind and unable to drink from a bottle will learn today whether their parental rights will be terminated.

The parental rights termination trial of Gabriel and Sarah Rangel was conducted in Bay County Probate Court in May, and Judge Karen A. Tighe will issue her determination on whether the Rangels will keep custody of Bryce Rangel, now 7 months old, and his older sister, Madisyn, 2. The parents brought Bryce to Bay Regional Medical Center on New Year's Day with a fever and other injuries, claiming his sister had "head-butted" him.

The baby, then a month old, was airlifted to the University of Michigan Children's Hospital, where doctors discovered new and old blood spots on the baby's brain, indicating at least three separate incidents of head trauma, according to Probate Court records.

Bryce also had broken ribs, a broken pelvis and bruises on his face, forehead, arm, knee and feet, according to court records. His eyes were crusty and swollen, according to the petition, and doctors later determined the baby was blind and unable to suck, necessitating a feeding tube to provide nutrition.

At the age of 1 month, Bryce weighed 8 pounds, 5 ounces - 2 ounces less than he weighed at birth.

Both Rangel children are now in foster care, and Tighe may make them permanent wards of the state today if she determines the parents neglected or abused the boy.

Both parents have pleaded "not responsible" for the boy's injuries.

James A. Perry, representing Sarah Rangel, declined to comment on the pending hearing.

Matthew Reyes, representing Gabriel Rangel, 29, could not be reached for comment.

Shortly after the baby was taken to the hospital, police arrested Gabriel Rangel on an unrelated warrant, but released him without filing any charges stemming from the baby's injuries.

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# **Lutheran Home counselor charged with having sex with teenage client**

Monday, July 18, 2005

By Crystal Harmon TIMES WRITER

A 45-year-old female social worker is accused of having sex with a 16-year-old client while she was in charge of providing his therapy at the Lutheran Home in Bay County.

Annette Belonga of Midland was arraigned Wednesday in Bay County District Court on one count of second-degree criminal sexual conduct and one count of third-degree criminal sexual conduct. Each charge carries a maximum penalty of 15 years upon conviction.

Belonga stood mute during her arraignment and demanded a hearing on the evidence, which has been scheduled for July 26. Belonga posted 10 percent of her \$50,000 bond and was ordered to have no contact with minors except her children.

Prosecutors allege that Belonga had sexual intercourse and oral sex with the boy in her office at the Lutheran Home at 304 N. Tuscola Road in June 2004. The home, operated by Lutheran Child and Family Service of Michigan, provides housing and counseling for young offenders.

The victim also claims the two had sex in the woods near Tawas City after Belonga drove him to Grayling to obtain an ID card.

Although the victim was 16 at the time of the alleged sexual incidents - the legal age of consent in Michigan - a new state law allows teachers and counselors to be criminally charged for having sex with 16- or 17-year-olds, even if it is consensual, with students or residents under their authority.

According to records of the state's Consumer and Industry Services, Belonga's social work license had been suspended in March 2004 for "lack of good moral character" while working as an infant mental-health counselor in Alma.

State officials suspended her license after she showed up late for several meetings, fell asleep while meeting with clients and was found to be living with the father of one of the infants whose case she was handling.

According to a police report, Bay County Lutheran Home administrator Colleen Gorman told police she became aware after hiring Belonga that her license had been suspended, but that she allowed her employment to continue because she "didn't need" a license.

However, Gorman said, she confronted Belonga in August 2004 about "professional boundaries," including the alleged victim physically leaning on her during group counseling sessions. Afterward, Gorman told police, Belonga resigned.

Gorman contacted police in November after discovering love letters to Belonga from the alleged victim.

While being interviewed at a child advocacy center, the alleged victim told the interviewer that he and Belonga "love each other" and plan to get married.

One day in her office, he said, they had sex on the couch. "I am 16 and we both agreed," he said. The Times was unable to reach the director of the Bay County Lutheran Home or Belonga's attorney, C. Michael Gorte, for comment.

July 16, 2005

## **TC man accused of four more charges**

### **Man accused of filming young girls**

By IAN C. STOREY

Record-Eagle staff writer

TRAVERSE CITY - Additional charges are being brought against a Traverse City man accused of using a hidden camera to take nude pictures of young girls.

Timothy Jay Frederick, 40, faces four more charges. The 20-year felonies include three counts of child sexually abusive activity and one count of using a computer for a crime. Grand Traverse County sheriff's officials were contacted on July 9 after the images of young girls in various modes of dress were found on Frederick's computer. The images were taken with a hidden camera.

Frederick was arraigned Monday on two initial felony charges of felony possession of child abusive material - a four-year offense - and felony surveillance of an unclothed person.

Prosecutors amended the criminal complaint against Frederick on Thursday after sheriff's detective Todd Heller allegedly found additional sexually explicit images involving two young girls on a computer seized from Frederick's Traverse City home. On the computer, Heller reported he found additional images of the two victims, including pictures of the girls in the bathroom, swimming and of Frederick exposing himself alone with articles of the girls' clothing.

Heller also found "morphing" software on Frederick's computer he allegedly used to create videos that depicted the two victims engaged in "erotic nudity" and "sexual acts," according to 86th District Court records.

According to the complaint, Heller found three complete movies Frederick allegedly created.

Frederick, who is being held in the Grand Traverse County Jail on \$250,000 bond, is scheduled to appear in court again on July 22.

# Man sought in attack on boy

Monday, July 18, 2005

rhall@kalamazoogazette.com 388-7784

Sturgis police said they were searching this morning for a man who abducted a 10-year-old boy from a residence Saturday and assaulted him at a nearby vacant apartment.

The suspect entered the residence, in the 1200 block of Laura Drive, through a basement window between 2:30 a.m. and dawn Saturday, Police Sgt. Luis Rosado said. The man then woke the boy, who did not live at the residence but was staying there with friends, and the two left the house through a sliding-glass door, he said.

The boy, whose name was not released this morning, returned to the residence Saturday morning after he was released by the suspect, Rosado said. The incident was reported to police about 10:55 a.m.

Sturgis police, with the assistance of the Michigan State Police, White Pigeon police and the St. Joseph County Sheriff's Office, have developed description and a sketch of the suspect, but Rosado said this morning authorities have not questioned anyone.

The suspect is described as a young adult male with short, dark hair, dark pants, dark shoes, a fanny pack and a dark shirt with red stripes and a picture on the front.

Anyone with information about the case or who may have seen the suspect in the area of Laura Drive can call the Sturgis Police Department at (269) 659-7260 or Crime Stoppers at (800) 342-7867.

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Published July 18, 2005

## **Pastors asking parishoners to open homes to foster kids**

### **One Church, One Child program seeks twenty matches**

By Nicole Jacques

Lansing State Journal

Lansing's black clergy have set out to find safe, loving homes for at least 20 black foster children by the fall. The grass-roots effort to recruit foster families is inspiring hope for relieving a shortage of suitable foster homes in Ingham County.

St. Stephen's Community Church received a \$50,000 pilot grant from the Department of Human Services in February to launch the One Church, One Child of Lansing, Michigan program.

State officials are watching the program closely to see whether funding such a faith-based effort is a successful way to grow the pool of foster homes for minorities statewide.

The idea is to unite each child with a local church that can recruit a foster family and provide continuing support.

"It's a clergy-initiated effort that we hope will make a difference," said the Rev. Michael Murphy, pastor at the westside church and a Democratic state representative from Lansing. "It's a growing problem."

Faith Fellowship Baptist Church joined the effort Sunday, taking time from its regular service to ask parishioners for help. A few families expressed interest, said Loran Graham, a St. Stephen's deacon and program manager of One Church, One Child.

Before Sunday's request, Graham had referred three eligible single parents or couples to state officials to begin the process of becoming foster parents. Several others have expressed interest.

"We're building a network," he said. "The church is a family, too."

Reaching out: Faith Fellowship Baptist Church Pastor Stan Parker makes a passionate plea for members of his congregation to consider becoming foster parents to black children who are wards of the state. The initiative, One Church, One Child of Lansing, seeks to collaborate with faith-based organizations and the foster care system to match children with area families.

#### **To help**

Contact One Church, One Child of Lansing at 371-8066, if:

- You are interested in learning about becoming a foster or adoptive parent.
- Your business or organization would like a free presentation about the process and the local area's specific needs.

Blacks make up about 245 - or 41 percent - of the nearly 600 Ingham County children separated from their families because of loss, abandonment or neglect, according to the human services department.

With barely enough licensed homes to keep up with kids coming into the system, agencies often can't match children with families from the same community or ethnic background.

"Michigan's under the gun to correct that," said Jim Paparella, executive director of Child and Family Services, Capital Area. "We need something different, more culturally based and more at the grass-roots level."

The county's Child Welfare Partnership, a group of agencies that recruits and trains foster parents, especially needs families willing to host siblings, children with special needs and older kids. About 60 percent are 10 or older.

"It's not always an easy sell," Paparella said. "You're asking people to come forward out of the goodness of their heart."

One Church, One Child has been a successful model for placing minorities in nurturing homes across the country. A Chicago pastor founded the program in 1980.

It initially came to Lansing through Mt. Zion Church in the 1990s but was discontinued, Murphy said.

The new attempt allows 10 people trained to explain the role of foster parents to make their case by visiting churches, organizations and community events.

Keesha Fife, who hopes to host a child, said she was surprised to learn how many need assistance.

"Children need love and guidance and a sense of direction," said Fife, a 34-year-old mother of two. "Obviously, they're in the situation where they're not getting that."

Contact Nicole Jacques at 377-1066 or [njacques@lsj.com](mailto:njacques@lsj.com).

# Family love rises to new heights

7 | 17

■ Michigan couple adopt nine children with special needs into nurturing atmosphere.

*Associated Press*

**DEERFIELD TOWNSHIP** — After visiting the adopted children of Roger and Tammy Rudi for the first time, Dr. James Johnson pulled his car off the road and wept.

Brianna, 10, and Savannah, 8, are blind and can't walk.

Dylan, 10, Maxwell, 7, and Brianna are all hydrocephalic, having excess fluid on the brain, and Dylan also has cerebral palsy.

Myles, 5, has cystic fibrosis and is autistic.

Montgomery, 4, is bipolar and doesn't have any sweat glands.

Jayden, 4, is microcephalic, with a small head and brain.

The brain of Delaney, 2, did not divide into two hemispheres, and she must use a wheelchair, although she's often carried now.

And since that day, the family has also adopted Mackenzie, 12 weeks old, who is also hydrocephalic.

Seven of the nine are fed through tubes in their stomachs. All are in diapers. Their conditions have all been called terminal.

"It reminded me of Haiti," said Johnson, of Belleville, a former medical missionary, while recalling his first trip to the Rudi family, "but the kids would die there."

Instead, at their 15-bedroom, 12-bathroom house on Lobdell Lake, Roger and Tammy Rudi see to it that each of their special-needs children lives in a nurturing home with dignity.

For example, Brianna and Savannah can't see, but their bedroom is decorated in little-girl pink and white and with flowers. Ballerinas dance on the wall.

Tennis shoes are lined up on top of a room divider. Four locked cupboards hold a legion of medicine bottles.

Then there is the work that needs to be done: 40 feedings a day, six loads of laundry a day, all the diapers that need to be changed.

"Things get hard from time to time, but it does for every family," said Tam-



Photos by Ryan Garza / Associated Press

Tammy Rudi helps Max play the violin as one of her biological sons, Michael McGue, plays the guitar with Montgomery, 4. Delaney, 2, is in the foreground.



Rudi, who is kissing Delaney during a feeding, believes the children thrive on "love, acceptance and good care" and a circle of support.

my Rudi. "There are moments I pray, 'God, you've got to help me.'"

"There hasn't ever been a day I couldn't love them. Roger and I have a strong faith in God. Raising these kids is our mission field. Our hearts believe strongly in this."

What brought the newlyweds to make a place for kids with severe health problems 10 years ago began with the

idea to start a family that needed them. It was Roger's first marriage and Tammy's second. Her three children — sons Michael McGue, 21, and Madison McGue, 17, and daughter Megan McGue, 20 — live with them, too.

Dylan was the Rudis' first adopted son. He was born a triplet and was 14 months old when a friend told them about him.

"Once we got him in our arms, he was ours," Roger Rudi said.

Over the years, they heard of more babies families couldn't deal with.

The Rudis decided early on that they would adopt three. But they heard stories that broke their hearts, and they took in just one more, then another.

"Somewhere, we went beyond that and kept going. After it got to a certain point, one more didn't matter," said Tammy Rudi, 40. None of the children was supposed to live as long as they have.

"These kids are so fragile, (but) there is something special about each of them," Rudi said.

They thrive, she surmises, on "love, acceptance and good care" and a circle of support.

"Everybody is on the same page that what makes this work — the doctors, the school, the therapists, our whole family unit," she said.

# Christian adoption agency rejects Roman Catholic couples, saying faiths are in conflict

7/16/2005, 10:25 a.m. ET

The Associated Press

JACKSON, Miss. (AP) — The president of a Christian adoption agency based in Michigan says the organization does not flatly prohibit Roman Catholic couples from adopting, but allows state branches to determine their own policies.

The Mississippi branch of Bethany Christian Services of Grand Rapids, Mich., told a Jackson couple this month that the Catholic religion conflicts with the agency's "Statement of Faith," and another Mississippi couple said they were rejected for the same reason last year.

The agency's policy has come under scrutiny in part because the group gets money from fees from Mississippi's Choose Life license plates.

"It has been our understanding that Catholicism does not agree with our Statement of Faith," Bethany's state director Karen Stewart wrote. "Our practice to not accept applications from Catholics was an effort to be good stewards of an adoptive applicant's time, money and emotional energy."

The organization that parcels out proceeds raised from the sale of the Choose Life plates has asked to review the policy of a private adoption agency after learning the group will not consider Catholics as adoptive parents.

"We are receiving information from Bethany for our board," Geraldine Gray of Choose Life Mississippi said Friday. "We'll look at the information they forward to us to get a clearer understanding."

Messages were left for the agency in Mississippi.

Motorists pay an additional fee of \$31 for the specialized car tag. Of \$244,000 generated by the sale of the tags in 2004, Bethany received \$7,053, Gray said.

Though the fee passes through state coffers, it is considered a private donation, said Kathy Waterbury of the Mississippi Tax Commission.

"They aren't public funds in that we are collecting money on behalf of the organization the tag represents," she said.

Proceeds from the sale of Choose Life car tags go to the nonprofit organization Choose Life Mississippi. That agency then distributes funds to nonprofit organizations that have applied to receive a portion of the money.

Gray said any anti-abortion organization can apply for the funds by downloading a form from the group's Web site.

The two-page application asks applicants to describe how they work with women who come in for pregnancy tests, how many women they refer for adoption and to verify the organization's nonprofit status, Gray said.

"We've never denied anyone who applied," Gray said, explaining Choose Life Mississippi aims to support organizations that don't refer women to abortion providers. "What we're interested in is saving babies."

Sandy and Robert Steadman, who learned of Bethany's decision in a July 8 letter, said their priest told them the faith statement did not conflict with Catholic teaching.

Loria Williams of nearby Ridgeland said she and her husband, Wes, had a similar experience when they started to pursue an adoption in September 2004.

"I can't believe an agency that's nationwide would act like this," Loria Williams said. "There was an agency who was Christian-based but wasn't willing to help people across the board."

Bethany has 75 offices in 30 states, including three in Mississippi. The offices are independently incorporated and are affiliated with various religions, spokesman John VanValkenburg said from the agency headquarters.

He couldn't say whether any were Catholic-affiliated. The Jackson office is affiliated with the Presbyterian Church of America, he said.

Glenn DeMots, president of Bethany, said on Friday that the policy is open to interpretation. He said the national office does not ban adoptions to Catholic families, but does allow each branch to establish rules for the placement of children based on the agency's "Statement of Faith."

VanValkenburg said the offices in Mississippi do not receive any public money but that some offices in other states do, for example, because they are involved in foster care.

Stewart told the Jackson Clarion-Ledger that Bethany's board will review its policy, but she didn't specify which aspects will be addressed.

The agency's Web site says all Bethany staff and adoptive applicants personally agree with the faith statement, which describes belief in the Christian Church and the Scripture. It does not refer to any specific branches of Christianity.

"As the Savior, Jesus takes away the sins of the world," the statement says in part. "Jesus is the one in whom we are called to put our hope, our only hope for forgiveness of sin and for reconciliation with God and with one another."

Monday, July 18, 2005

## **States should stop treating children of gays as orphans**

By Deb Price / The Detroit News

Long before she began to seriously entertain the idea of becoming a parent, and even longer before the birth of the 6-year-old twins now at the center of her universe, Heather Finstuen was attracted to how much Anne Magro valued family: In 1991, while the women were Illinois graduate students, Magro would drive five hours to see her teenaged siblings play soccer in Ohio.

Soon Finstuen and Magro began building a life together, moving to New Jersey so Magro could take a job as an accounting professor at Rutgers University. They bought a home and eventually decided they were ready -- financially and emotionally -- for Magro to bear their first child.

News that Magro was actually having twins was a delightful jolt. "We had to restructure our finances," Finstuen recalls of the last-minute planning before the 1998 arrival of their tiny daughters, no bigger than kittens. New Jersey allowed Finstuen to adopt Kate and Sarah as their legal second parent.

Had the family not moved to Oklahoma, this could be a column about how a growing number of states have begun helping conscientious gay couples protect their children. Instead, it spotlights the need for judges to defend loving, stable families made needlessly vulnerable by officials who neglect or undermine them. (Michigan law doesn't address second-parent adoptions, and a few judges have granted them.)

The University of Oklahoma wanted Magro's talents. The family was persuaded in 2000 that, despite the state's history of hostility, they could flourish there.

And it has. But neither mom has felt safe since May 2004, when Democratic Gov. Brad Henry signed a law that Oklahoma "shall not recognize an adoption by more than one individual of the same sex from any other state or foreign jurisdiction."

Now both moms are terrified: Oklahoma could use a tragedy to treat Kate and Sarah as orphans. "If something fatal happens to Anne," Finstuen asks, "what happens if someone shows up and says I am not a legal parent? I show them a piece of paper that says I am the parent, and they show me the law. And then who decides?"

The family is asking the federal court system to decide that the Oklahoma law -- as mindlessly anti-child and anti-family as it anti-gay -- is unconstitutional. Already, a federal judge has given them and two other families a green light to proceed with the lawsuit filed by Lambda Legal. Judge Robin Cauthron brushed aside the state's argument that the suit is premature because the law has not been enforced. Cauthron, appointed by President George H.W. Bush, stressed the stakes are high: "If Gov. Henry faithfully executes this Oklahoma law pursuant to his duty to do so, no state agency will recognize these plaintiffs as a family and these plaintiffs could be deprived of all the legal rights and obligations associated with that relationship."

A Washington state couple -- Greg Hampel and Ed Swaya -- and their daughter, Vivian, are part of the lawsuit. Vivian was adopted from an Oklahoma woman. Oklahoma's attorney general then ordered the Health Department to issue a birth certificate listing both men as parents. Lawmakers

reacted with the anti-gay adoption rule. So now, the fathers think it's too risky to let Vivian visit her birth mother and Oklahoma.

And Magro and Finstuen fret they might have to leave Oklahoma. "If we lose, it's just too dangerous to stay," Magro says.

Good parents -- gay or straight -- shouldn't have to fear that some government agency is going to take away their kids.

*Reach Deb Price at (202) 906-8205 or [dprice@detnews.com](mailto:dprice@detnews.com).*

# **Troy may set day care limits**

## **For in-home providers, the key to staying in business could be a matter of numbers.**

By Joe Menard / The Detroit News

July 18, 2005

**TROY** -- Parents could soon have fewer day care options in Troy, where a neighbor's complaint has city officials considering a crackdown on in-home centers that host more than six children. Though the state licenses centers for seven to 12 children, a Troy ordinance allows no more than six children in a home. So when a neighbor of one of Troy's 19 group day care centers complained about heavy traffic during morning drop-off time, city officials decided they needed to change the law or enforce it. "They were never permitted to begin with," said Mark Miller, Troy's city planner. "No one has complained about them until the past year." Michigan already suffers from a day care shortage. Statewide there are nearly 350,000 spots open, but that meets only 82 percent of the need, according to the Michigan Community Coordinated Child Care Association. The problem is especially acute for kids under 18 months.

It took resident George Renaud more than two months to find a day care provider for son Carter. Now he worries he'll have to start over. "Carter's really adjusted well here," Renaud said of his 2 1/2 -year-old son, who has been going to Sharon Schafer's home five days a week since he was 6 months old. "He loves it."

Troy's dispute is focused not on large businesses, but midsize centers that often operate in neighborhood homes.

The result could have an impact on how other cities approach their day care homes.

The state licenses two types of day care homes.

Family day care homes, which care for up to six children, are generally allowed because the operator of the home does not need additional staff. But group day care homes often fall under business regulations because they need additional staff. Schafer cares for eight children.

In cities such as Troy, home businesses are not allowed to employ workers who do not live on the premises, thereby making the homes technically illegal.

Tips for finding quality day care

- Start looking as early as you can.

- Ask centers about the adult-to-child ratio.

Babies need an adult-child ratio of four kids to one adult, while 4-year-olds can do well with a ration of 10-1.

- Ask about the caregivers' training and education. Caregivers with degrees and/or special training may better help your child learn.

- Check how long caregivers have been at the center or providing care in their homes.

- Find out if the child care provider has been accredited.

*Source:*

*childcareaware.org*

Day care meeting

The Troy Planning Commission will hold a public hearing at 7:30 p.m. Aug. 9 in the City Council Chambers, 500 W. Big Beaver, before sending a recommendation to the City Council.

*Source: City of Troy*



"It's kind of a gray area," said Steve Cohen, a city planner for Auburn Hills, where the city's 11 such homes also violate local ordinance, but city officials look the other way. "Since they're licensed by the state of Michigan, the city's kind of taken their hands off of it."

He said his city is waiting to see how the controversy plays out in Troy before proceeding. Livonia had a similar controversy over its 17 group day care homes in 1999. There, city officials changed the ordinances to allow the homes under permits granted on a case-by-case basis. The Troy controversy has parents and day care providers crying foul and accusing the city of being insensitive toward families.

"It's not like it was in the '70s or '80s. We have to accommodate these people," Schafer said, adding that more families today have both parents working. "I'm hoping they're going to understand that. It's the reality of life."

Candy Shepherd of Utica, who works as a payroll supervisor in Bloomfield Hills, said she'd love to leave her 3-year-old son, Jack, with family, but it's not an option.

"We have to keep the laws up with the day and age," she said. "Maybe now it's the time they look at those laws and revise them."

Rachel Santoro of Oak Park, who works as a sales representative in Troy, hopes the city allows homes like Schafer's to continue for her 2 1/2 -year-old son, Scott.

"If he can't be in my care at my home, being cared for and loved by someone else is the next best thing," she said.

*You can reach Joe Menard at (248) 647-7429 or [jmenard@detnews.com](mailto:jmenard@detnews.com).*

## IN BRIEF

### Caregiver gets prison in Flint beating death

FLINT — A woman convicted of beating to death a 79-year-old Genesee County woman who was under her care was sentenced Thursday to 50 to 79 years in prison.

Rosie A. Starnes, 37, of Flint previously had pleaded no contest to charges of second-degree murder, armed robbery and safe-breaking.

Authorities say Starnes beat Alvera Nowosislosky to death with a hammer in the older woman's Flint home then broke into her safe and used the \$400 she stole to buy drugs.

# Letters for July 17

Grand Rapids Press

Sunday, July 17, 2005

Changed attitudes toward sex-- This is in response to Governor Granholm's plan to reduce unwanted pregnancies ("Granholm plan met with mixed reviews," Press, July 8), and columnist Ellen Goodman's July 11 abortion comments in "Without O'Connor, the center doesn't hold." Ms. Granholm and Ms. Goodman and others seem to think that the solution is more artificial contraceptives. Just what problem they're supposed to solve, however, isn't clear. Is it the cost of children, the number of abortions or something else?

I think the question that ought to be asked is, are artificial contraceptives the problem, rather than the solution? Is it possible that they've changed our attitudes toward sex, making the conception of children something we expect to control, and any unwanted pregnancy a "loss" of that control?

Artificial contraceptives remove fully half the purpose of sex, or worse, make children "unplanned." Far too often, we substitute a cheap thrill for the other half (which is to express one's love for one's spouse, for those who've forgotten).

Is it any wonder, then, that by trying to nullify and change the purpose of sex, we've eliminated the sense of awe and respect that we once had for it? Wouldn't such awe and respect, if we were to bring it back, help keep the "problems" we're now trying to "solve" in check?

Our society craves instant remedies, but unfortunately, our changed attitudes toward sex have plunged us into a moral and social quagmire that no quick fix can get us out of. The only thing that can save us is a long-term change in our own mentality and attitudes, and the way we educate our children.

KEVIN RAHE/Oakfield Township

## Macomb should conduct its job search properly

**M**acomb County has so far thoroughly botched its search for a new head for its juvenile justice facility.

The county chose an interim director who had to resign because it was revealed he lacked the credentials for the job. The Ministerial Alliance of Macomb County, a group of African-American pastors, has accused the county of nepotism and cronyism in its general hiring processes, and the private search firm

Macomb hired to find a candidate quit after complaining that county officials engaged in a pattern of "unethical or incompetent" behavior in the search process.

County officials have denied the charges, but the best way they can prove their critics wrong is to make sure they complete the search process correctly and come up with a well-respected and qualified juvenile justice director.

Michigan Report

July 15, 2005

## **WELFARE CASELOADS CONTINUE FALL**

Family Independence Program caseloads dropped again in June, according to a report from the Department of Human Services. The 77,283 cash assistance cases marks the fourth straight month of case reductions.

The June cases represented 209,278 people, also a drop from the 212,268 people covered by cash assistance in May.

Again, about 34 percent of targeted cases had some earned income and 57 percent of all cases were exempt from work requirements. And about 12 percent have exceeded the 60-month limit on federal assistance.

But while cash assistance cases fell, Food Assistance cases continued to climb to 477,266 cases from 474,309 in May. Caseloads in that program have been climbing steadily through 2005.

Childcare assistance is also increasing, with 65,438 cases for June (123,785 children), up from 63,699 cases (120,120 children) in May.

The department reported that child support cases were also increasing, with 1.056 million cases representing 1.029 million children in June. Officials said cases were larger because many children are involved in both a case with their parents and with foster parents. That caseload is up from 977,560 in October 2002. The figures are updated quarterly.

Executive Staff  
Karen Stock

(from Marianne Udow)

# Week



APHSA  
American Public Human Services Association

## in Washington

July 15, 2005 · Volume XXVI · No. 28

### HHS Names Medicaid Advisory Commission

On July 8, Mike Leavitt, secretary of the U.S. Department of Health and Human Services (HHS), announced 13 voting members and 15 non-voting members of an advisory commission charged with identifying reforms necessary to stabilize and strengthen Medicaid. Former Tennessee Gov. Don Sundquist (R) will chair the commission and former Maine Gov. Angus King (Ind.) will serve as vice chair. Nancy Atkins, commissioner for the Bureau for Medical Services at the West Virginia Department of Health and Human Resources, is a voting member; Atkins serves as chair of the National Association of State Medicaid Directors, an affiliate of the American Public Human Services Association (APHSA), and was nominated for the commission by APHSA. Tony McCann, Maryland's secretary of health and mental hygiene, is also a voting member. Vacancies will remain on the commission for two current governors until after September 1, 2005, when the commission will focus on long-term Medicaid reform issues. HHS posted an announcement in the July 12 *Federal Register* (70 FR 40039) of the group's first public meeting, which will take place July 27 in Washington. More information on the meeting is available at <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-13790.pdf>. The HHS news release on the Medicaid Commission is available at <http://www.hhs.gov/news/press/2005pres/20050708.html>.

### Senate Panel Marks Up Labor-HHS Spending Bill

On July 14, the Senate Appropriations Committee marked up its fiscal year 2006 Labor, Health and Human Services, and Education spending bill. The action follows a subcommittee markup on July 12. The legislation provides \$145.693 billion in spending, an increase of \$2.230 billion over FY 2005 spending levels and \$2.7 billion over the House-passed legislation. To provide the additional funding, the Senate panel moved \$3.3 billion in Supplemental Security Income program funds scheduled to be released on the last day of this fiscal year (September 30, 2005) to the first day of the next fiscal year (October 1, 2005). The legislation awaits Senate floor debate. The House passed its version (H.R. 3010) in June.

### Ways and Means Panel Looks at New Hires Directory

On July 14, the House Ways and Means Human Resources Subcommittee held a hearing on the use of the National Directory of New Hires by agencies administering the Temporary Assistance for Needy Families program. The directory has been used primarily by the Child Support Enforcement system, but its use is being expanded to unemployment and work programs. During the hearing, Wade Horn of the Administration on Children and Families (ACF) spoke about several

states that have already expressed interest in utilizing the directory within the next several months.

### Hearing Held on Youth Development Programs

On July 12, the House Education and the Workforce Select Education Subcommittee held a hearing on the Federal Youth Coordination Act, H.R. 856, introduced last February by Rep. Tom Osborne (R-Neb.). Michael O'Grady, HHS assistant secretary for planning and evaluation, spoke on the cooperative work already being done on behalf of youth and the progress made in this area. Other witnesses included Richard Moore of the Iowa Department of Human Rights; Laura Shubilla, Philadelphia Youth Network; Marguerite Sallee, America's Future; and Laurence Steinberg, MacArthur Foundation. They emphasized the need for continued cooperation among agencies that provide services to children. Witness testimony is available at <http://edworkforce.house.gov/hearings/109th/sed/sedhearings.htm>.

### DeLay Unveils Foster Child Protection, Predator Bill

On June 30, Rep. Tom DeLay (R-Texas) introduced H.R. 3129, the Foster Child Protection and Child Predator Sentencing Act of 2005. The legislation would increase penalties for various sexual offenses and provides for the civil commitment of sexually dangerous persons. It would also require complete background checks before any foster or adoptive placement. These checks would include national crime information databases and state child abuse registries. Under the legislation, states would no longer be able to opt out of these requirements after September 30, 2005. The legislation would also grant appropriate child welfare agency staff "read-only" online access to the national crime information databases to carry out criminal history records checks. Full text of the legislation can be accessed online at <http://thomas.loc.gov>.

### CMS Unveils New Web Site for Low-Income Subsidy

On July 11, the Centers for Medicare and Medicaid Services (CMS) and two aging groups launched a web-based service to help low-income Medicare beneficiaries determine their eligibility for the financial subsidies that begin January 1, 2006, as part of Medicare Part D. The new service is a customized version of BenefitsCheckUpRx updated to reflect and include the assistance with Medicare drug coverage. The site screens beneficiaries for eligibility and then provides a quick link to applying online for financial help through the Social Security Administration's web site. The new program is designed to help Medicare beneficiaries learn about and apply for the Medicare low-income subsidy if they are eligible and to provide

information on how to enroll in various programs. The service was developed by the Administration on Aging with the assistance of CMS and the National Council on the Aging, and can be accessed at the BenefitsCheckup web site, <https://ssl2.benefitscheckup.org/>.

### **CMS Approves Iowa, Florida Demonstration Waivers**

CMS has recently approved Iowa's 1115 demonstration waiver, titled IowaCare, for five years. IowaCare expands Iowa's Medicaid program for children and adults, ages 19 to 64, including parents of children eligible for Medicaid and the State Children's Health Insurance Program (SCHIP) who have an adjusted income at or below 200 percent of the federal poverty level. Iowa also will integrate home and community-based services for children diagnosed with chronic mental illness and implement the Mental Health Transformation Pilot; this pilot transitions Iowa from an institution-based program model to a managed care and/or community-based care program for individuals with long-term psychiatric stays. Enrollees will be using a specified provider and required to pay monthly premiums that will not exceed 5 percent of annual family income. CMS also approved Florida's 1915(b) demonstration waiver renewal for the state's Medicaid managed care program for children with life-threatening conditions. The two-year waiver renewal covers children's hospices that will add special respite care and counseling for families and do not require children to be in their last six months of life to receive services.

### **GAO Report Reviews Special Needs Adoptions**

On July 13, Senators Hillary Clinton (D-N.Y.) and Chuck Grassley (R-Iowa) hosted an event presented by Voice for Adoption to release a new Government Accountability Office (GAO) report, *Child Welfare: Better Data and Evaluations Could Improve Processes and Programs for Adopting Children with Special Needs*. Clinton spoke on the need to provide incentives for the adoption of older children and retain services for children after they are adopted. Grassley discussed recent legislation aimed to increase adoption incentives such as special-needs adoption tax credits. He indicated a desire to make recent adoption incentives a permanent part of the tax code. The report (GAO-05-292) can be read at [www.gao.gov/ew.items/d05292.pdf](http://www.gao.gov/ew.items/d05292.pdf).

### **Hearing Reviews Improper Payments Legislation**

On July 12, the Senate Homeland Security and Governmental Affairs Federal Financial Management Subcommittee held a hearing on the Improper Payments Information Act of 2002 (IPIA, P.L. 107-300). Sen. Tom Coburn (R-Okla.), chair of the subcommittee, was critical of the IPIA's implementation status, saying that it and the degree of improper payments were "atrocious." Coburn said only 17 government agencies are in compliance with the IPIA's reporting requirements, which mandate that federal agencies likely to have improper payments over a certain level must report the extent of the payments and steps to reduce them. Among those testifying was Kate Coler, deputy undersecretary at the U.S. Department of Agriculture, who said that the Food Stamp Program (FSP) payment error rate is at a historically low level of 5.88 percent, a 34 percent improvement over the past five years. Coler said part of the credit goes to the 2002 farm bill, which allowed states to streamline eligibility criteria for the FSP and with other low-income assistance programs. Also testifying was Tim Hill, director of the Office of Financial Management at CMS, who said CMS plans to publish an interim final regulation "later this summer" to bring Medicaid and SCHIP into compliance with IPIA. In 2004, CMS

published a proposed regulation to implement the Payment Error Rate Measurement system for Medicaid and SCHIP, which would impose substantial new requirements on states.

### **ACF Reopens PARIS Grants**

The Administration for Families and Children (ACF) announced on July 13 that the Public Assistance Reporting Information System (PARIS) State Partnership Grants have been reopened. The announcement was published as a correction to the original grant announcement notice published on April 25, 2005. ACF made several key changes to the original announcement, including increasing funding for partner states to \$200,000 and member states to \$100,000. ACF also eliminated the requirement for fiduciary responsibility between state partners. The due date for applications has been extended from June 24, 2005, to August 8, 2005. The corrected PARIS grant announcement appeared in the July 13 *Federal Register* (70 FR 40371-40372), and is available at <http://www.gpoaccess.gov/fr/index.html>.

### **New York Official to Head HHS Child Support Office**

Margot Bean, director of the Division of Child Support Enforcement for the New York Office of Temporary and Disability Assistance, has been named commissioner of the federal Office of Child Support Enforcement. Bean is also the president of the National Child Support Enforcement Association and a former child support director in Guam. She will begin her new position on July 25.

### **Education Dept. Seeks Comments on IDEA Forms**

On July 13, the Department of Education (DOE) issued a request for comments on revisions to several forms and instructions related to services for infants and toddlers under the Individuals with Disabilities Education Act (IDEA). The revised forms include reports of the number of infants and toddlers with disabilities receiving services under IDEA Part C; the personnel providing such services; and the number of infants and toddlers who exit Part C. DOE also invites comments on a new form for states to report dispute resolution activities under IDEA Part C. The forms are available at <http://edicsweb.ed.gov>. Comments must be submitted by September 12, 2005. The notice was published in the July 13 *Federal Register* (70 FR 40321-40323) and is available at <http://www.gpoaccess.gov/fr/index.html>.

### **USDA Announces Additional Farm Bill Forums**

On July 7, USDA announced the location of the next three forums at which the public can present proposals for the 2007 farm bill. The bill will reauthorize the FSP and other federal nutrition programs. The next forums will take place in Minot, N.D., July 26; Redwood County, Minn., August 3; and West Allis, Wis., August 4. The public may also submit comments via the USDA Farm Bill Forums web site at <http://www.usda.gov/farmbill>. More information is available at [http://www.usda.gov/wps/portal/!ut/p/\\_s.7\\_0\\_A/7\\_0\\_10B?contentidonly=true&contentid=2005/07/0248.xml](http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_10B?contentidonly=true&contentid=2005/07/0248.xml).



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